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John M. Donurad, Clerk - Syracuse

UNITED STATES OF AMERICA

v.

WILLIAM SAIFF III,

Defendant.

) Criminal No.

)

) **Indictment**

)

) Violations: 16 U.S.C. §§ 3372(a)(1) &  
)

) 3373(d)(1)(B)

) [Sale of Wildlife in Violation  
)

) of Federal Law]

)

) 3 Counts &amp; Forfeiture Allegation

)

) County of Offense: Jefferson

**THE GRAND JURY CHARGES:****INTRODUCTION**

1. At all times relevant to this indictment, the defendant, **WILLIAM SAIFF III**, owned and operated Seaway Waterfowl Professionals LLC, a business that sold guiding services to migratory game bird hunters in and around Jefferson County, New York, in the Northern District of New York.

2. The Lacey Act is a federal law that makes it unlawful for a person to sell any wildlife taken in violation of any law, treaty, or regulation of the United States. 16 U.S.C. § 3372(a)(1). Under the Lacey Act, it constitutes a “sale” of wildlife “for a person for money or other consideration to offer or provide . . . guiding, outfitting, or other services . . . for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.” 16 U.S.C. § 3372(c)(1).

3. The Lacey Act defines certain terms as follows:

a. “[W]ildlife means any wild animal, whether alive or dead, including without limitation any wild mammal [or] bird . . . whether or not bred, hatched, or born in

captivity, and includes any part, product, egg, or offspring thereof.”

16 U.S.C. § 3371(a).

b. “The term ‘taken’ means captured, killed, or collected . . .” 16 U.S.C. § 3371(j)(1).

c. “The term ‘taking’ means the act by which fish, wildlife, or plants are taken.”

16 U.S.C. § 3371(j)(2).

4. Congress passed the Migratory Bird Treaty Act of 1918 (“MBTA”) to implement a treaty with Canada regarding hunting of migratory game. The MBTA authorizes the Secretary of the Interior to issue regulations related to hunting. 16 U.S.C. §§ 701, 704.

5. The MBTA makes it unlawful “for any person to . . . take any migratory game bird by the aid of baiting on or over any baited area, if the person knows or reasonably should know that the area is a baited area.” 16 U.S.C. § 704(b)(1).

6. The MBTA and its implementing regulations define certain terms as follows:

a. “Migratory bird means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in § 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.” 50 C.F.R. § 10.12.

b. “Migratory game birds” include “those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which seasons are prescribed in this part and belong to the following families: (1) Anatidae (ducks, geese [including brant] and swans); (2) Columbidae (doves and pigeons); (3) Gruidae (cranes); (4) Rallidae (rails, coots and gallinules); and (5) Scolopacidae (woodcock and snipe).” 50 C.F.R. § 10.13.

- c. “Take” means “to pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect.” 50 C.F.R. § 10.12.
- d. “Baited area means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt grain, or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take them.” 50 C.F.R. § 20.11(j).
- e. “Baiting means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take them.” 50 C.F.R. § 20.11(k).

7. Under the MBTA and its implementing regulations, a “baited area” will “remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.” 50 C.F.R. § 20.11(j).

8. At all times relevant to this indictment, all birds, including ducks, taken during hunts guided by Seaway Waterfowl Professionals LLC were migratory game birds protected under the MBTA and its implementing regulations. 50 C.F.R. §§ 10.12-13; 50 C.F.R. §§ 20.11 & 20.21.

**COUNTS 1-3**  
**[Sale of Wildlife in Violation of Federal Law]**

9. The allegations contained in paragraphs 1 through 8 are realleged and incorporated by reference as if fully set forth herein.

10. On or about the dates listed below, each date constituting a separate count of this indictment, in Jefferson County in the Northern District of New York, and elsewhere, the defendant, **WILLIAM SAIFF III**, did knowingly sell wildlife taken in violation of laws and regulations of the United States, and committed that violation by knowingly engaging in conduct

that involved the sale, the offer of sale, and the intent to sell wildlife with a market value in excess of \$350, in that defendant **WILLIAM SAIFF III**, knowing and having reason to know that certain ponds were baited areas from which the bait had not been completely removed for ten days or more, willfully caused hunters to take migratory game birds by the aid of baiting on and over those baited areas. Defendant **WILLIAM SAIFF III** did so by offering and providing guide services to the hunters for more than \$350 per hunt for the illegal taking, acquiring, receiving, transporting, and possessing of wildlife, and directing guides to lead the hunters to baited ponds for the illegal taking of migratory birds in violation of the Migratory Bird Treaty Act (“MBTA”), Title 16, United States Code, Section 704(b)(1); Title 50, Code of Federal Regulations, Section 20.21; and Title 18, United States Code, Section 2(b):

Count	Date
1	October 20, 2018
2	November 5, 2018
3	November 10, 2018

All in violation of Title 16, United States Code, Sections 3372(a)(1) and 3373(d)(1)(B).

#### **FORFEITURE ALLEGATION**

11. The allegations contained in Counts Two and Three of this indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 16, United States Code, Section 3374(a)(2) and Title 28, United States Code, Section 2461(c).

12. Upon conviction of the offenses in violation of Title 16, United States Code, Section 3372(a)(1), set forth in Counts Two and Three of this indictment, the defendant, **WILLIAM SAIFF III**, shall forfeit to the United States, pursuant to Title 16, United States Code, Section 3374(a)(2) and Title 28, United States Code, Section 2461(c), all vehicles and other equipment used to aid in the selling of wildlife in violation of Title 16, United States Code, Section 3372(a)(1).

The property to be forfeited includes:

a) One 2009 Honda All-terrain Vehicle (“ATV”), VIN #: 1HFTE374594001133.

Dated: December 19, 2019

Grand Jury Foreperson

GRANT C. JAQUITH  
United States Attorney

By:

Michael F. Perry  
Assistant United States Attorney  
Bar Roll No. 518952